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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/822,240	04/09/2004	Noel C. Cobb	0075-1	1744
25901	7590	08/27/2007		
ERNEST D. BUFF ERNEST D. BUFF AND ASSOCIATES, LLC. 231 SOMERVILLE ROAD BEDMINSTER, NJ 07921			EXAMINER PRONE, JASON D	
			ART UNIT 3724	PAPER NUMBER
			MAIL DATE 08/27/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

5p

<b>Office Action Summary</b>	Application No. 10/822,240	Applicant(s) COBB ET AL.	
	Examiner Jason Prone	Art Unit 3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 August 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2,4,5,7 and 9-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2,4,5,7 and 9-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 April 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>Appendix A</u> &                       |

## DETAILED ACTION

### *Oath/Declaration*

1. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

It does not state that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in 37 CFR 1.56.

In this case, the duty to disclose incorporates the incorrect statement "I acknowledge the duty to disclose information which is material to the examination of this application under 37 C.F.R. 1.56a". The correct duty to disclose statement is as follows:

"I acknowledge the duty to disclose information which is material to patentability of this application in accordance with Title 37, Code of Federal Regulations Section 1.56."

### *Drawings*

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "channel that is milled to a width that loosely fits the edges of the knife blade", of claim 9, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure

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is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

3. The disclosure is objected to because of the following informalities: The terms left side member and right side member do not accurately represent items 12 and 14. The terms "left" and "right" should be replaced with "upper" and "lower" or more preferably "first" and second". On page 14 line 9 and page 17 line 22, the Figures clearly show the blade protruding less than 50% of its length. All occurrences must be deleted. On page 18 lines 15-17, the depth of the channel appears to be greater than the depth of the blade. All occurrences must be corrected.

Appropriate correction is required.

### ***Claim Objections***

4. Claims 2, 4, 5, 7, and 9-12 are objected to because of the following informalities: In regards to all claims, the terms left side member and right side member do not

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accurately represent items 12 and 14. The terms "left" and "right" should be replaced with "upper" and "lower" or "first" and second".

In regards to claim 2 paragraphs c and d, the paragraphs should be replaced with the following: (note that the channel means is now in paragraph c and the locating means has been moved to paragraph d).

"c. a channel means disposed within the blade supporting portion for containing and supporting said blade;

d. a locating means disposed within the channel means for capturing said blade;"

In paragraph e of claim 2, the phrase "in a horizontal plane should be deleted.

Appropriate correction is required.

### ***Double Patenting***

5. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

6. Claims 2, 4, 5, 7, and 9-12 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 2, 4, 5, 7, and 9-12 of copending

Application No. 11/352,728. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

8. Claims 2, 4, 5, 7, and 9-12 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. It is unclear what structures the angulation is measured between thereby making the last phrase of paragraph b of claim 2 (said gripping portion is angulated with respect to said blade and said supporting portion) in combination with claims 4 and 5 unclear. Using Figure 1a, the angulation between the blade supporting portion and the grip portion is different than the angulation between the blade and the grip portion. As shown in Appendix A, it is clear that angulation B between the grip portion and the blade is bigger than angulation A. Using Appendix A and the range from claim 4, if angle A is 170° then angle B would be bigger than 170° and there is no support for an angle larger than 170°.

9. In regards to claim 9 and on page 18 lines 16-17, the phrase "The width of the milled channel is exactly same as the width of the double-edged knife blade and is designed to fit as a loose fit" is not possible. A loose fit would require some space to allow the blade to move but if the blade and the channel have the same width there cannot be a loose fit.

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10. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

11. Claims 2, 4, 5, 7, and 9-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

12. Claim 2 recites the limitation "the plane" on the last line of paragraph b. There is insufficient antecedent basis for this limitation in the claim.

13. With regards to paragraph d and e of claim 2, the phrase "a vertical plane" and "a horizontal plane" are unclear. It is uncertain if these planes are the same as the plane previously disclosed in paragraph b. The "a vertical plane" and "a horizontal plane" phrases should just be deleted.

14. Claim 11 recites the limitation "the thickness" on line 2. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 103***

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. Claims 2, 4, 5, 7, and 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tebo (6,848,185) in view of Anderson (4,109,380). In regards to claim 2, Tebo discloses the invention including a reversible, detachable blade having a sharp edge and two anchoring holes (56 in Fig. 2), a handle for supporting the blade

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(12), a right side member and a left side member (Fig. 2), a locating means disposed within the handle for capturing the blade (20), a channel means disposed within the handle for containing and supporting the blade (Fig. 2), a cavity for holding extra knife blades (15).

In regards to claims 7 and 9, Tebo discloses the locating means is attached to the right side member (20) and the channel is milled to a width that loosely fits the edges of the knife blade (Fig. 2).

However, Tebo fails to disclose the right and left side members are substantially V-shaped and together create a substantially V-shaped handle, one leg of the V is a gripping portion and the other leg is a blade supporting portion, the gripping portion is angulated with respect to the blade and blade supporting portion when viewed from a side view in the plane defined by the blade, a clamping means for clamping the left and right side members and supporting the blade, the angulation ranges from about 135 to about 150 degrees, the clamping means comprises at least one bolt, the bolt is threaded to the thickness of the left side member, and the bolt is slidably fit to the left side member.

Anderson teaches that it is old and well known in the art of utility blades to incorporate right and left side members that are substantially V-shaped and together create a substantially V-shaped handle (900 and 901), one leg of the V is a gripping portion (side opposite 908) and the other leg is a blade supporting portion (908), the gripping portion is angulated with respect to the blade and blade supporting portion when viewed from a side view in the plane defined by the blade (Fig. 9), a clamping



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means for clamping the left and right side members and supporting the blade (902), the angulation ranges from about 135 to about 150 degrees (Fig. 9), the clamping means comprises at least one bolt (902), the bolt is threaded to the thickness of the left side member (902), and the bolt is slidably fit to the left side member (902). Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided the handle, as taught by Anderson.

### ***Response to Arguments***

17. Applicant's arguments with respect to claims 2, 4, 5, 7, and 9-12 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Prone whose telephone number is (571) 272-4513. The examiner can normally be reached on 8:00-5:30, Mon - (every other) Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer D. Ashley can be reached on (571) 272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic

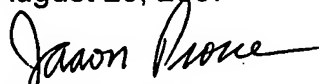
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Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

August 23, 2007

A handwritten signature in black ink, appearing to read "Jason Prone", written in a cursive style.

Patent Examiner

Jason Prone

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T.C. 3700

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**Appendix A**

